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Sent by: CONLEY ROSE, P.C.		713 238 8008;		06/02/04 15:13; jmlbx_1182;Page 1	
<b>FAX TRANSMITTAL COVER SHEET</b>					
TO:	U. S. Patent and Trademark Office Attn:				
FAX NO.:	(703) 872-9306				
DATE:	June 2, 2004				
FROM:	Robert M. Gray 41,793				
	Conley Rose, P.C. 7100 JPMorgan Chase Tower 600 Travis Street Houston, Texas 77002-2912		TELEPHONE:	(713) 238-8000	
			FAX:	(713) 238-8008	
CLIENT NO.:	1991-01100				
TOTAL NUMBER OF PAGES (INCLUDING THIS ONE)	8				
COMMENTS: Re:	U.S. Patent Application Serial No. 09/545,974 Applicant: Alexander Borzanko				
The following documents are attached for filing: Transmittal Form (1 p.); Power of Attorney by Assignee of Entire Interest (Revocation of Prior Power) (2 p.); Certificate of 37 CFR 1.72(b) (1 p.); Merger Agreement (2 p.)					
<b>CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))</b>					
I hereby certify that this paper (along with any referred to as being attached or enclosed) is being sent by facsimile transmission on the date shown below to (703) 872-9306 (fax number), the U.S. Patent and Trademark Office, in accordance with 37 CFR § 1.6(d).					
Date: June 2, 2004			Stephen K. Bailey (Type or print name of person mailing paper)  (Signature of person mailing paper)		
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PAGE 18 * RCVD AT 6/8/2004 4:22:43 PM [Eastern Daylight Time] * SVR:USPTO-EF210F-1/3 * DNIS:8729306 * CSID:7132388008 * DURATION (mm-ss):05:34					

## Send Confirmation Report

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2 Jun'04 15:16

Page 1

Job	Start time	Usage	Phone Number or ID	Type	Pages	Mode	Status
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## FAX TRANSMITTAL COVER SHEET

TO: U. S. Patent and Trademark Office  
Attn:

FAX NO.: (703) 872-9306

DATE: June 2, 2004

FROM: Robert M. Gray 41,798

Conley Rose, P.C.  
7100 JPMorgan Chase Tower  
608 Travis Street  
Houston, Texas 77062-3912

TELEPHONE: (713) 238-8000

FAX: (713) 238-8008

CLIENT NO.: 1991-01100

TOTAL NUMBER OF PAGES (INCLUDING THIS ONE) 8

COMMENTS: Re: U.S. Patent Application Serial No. 09/545,974  
Applicant: Alexander BortenkoThe following documents are attached for filing:  
Transmittal Form (1 p.); Power of Attorney by Assignor of Entire Interest (Revocation of Prior Powers) (2 p.); Certificate of 37 CFR 3.73(b) (1 p.); Merger Agreement (3 p.)

## CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.6(a))

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Sydnie K. Bagley  
(Type or print name of person mailing paper)

Date: June 2, 2004

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**FAX TRANSMITTAL COVER SHEET**

**TO:** U. S. Patent and Trademark Office  
Attn:

**FAX NO.:** (703) 872-9306

**DATE:** June 2, 2004

**FROM:** Robert M. Gray 41,798

**Conley Rose, P.C.**

**7100 JPMorgan Chase Tower**

**600 Travis Street**

**Houston, Texas 77002-2912**

**TELEPHONE:** (713) 238-8000

**FAX:** (713) 238-8008

**CLIENT NO.:** 1991-01100

**TOTAL NUMBER OF PAGES (INCLUDING THIS ONE)** 8

**COMMENTS: Re:** U.S. Patent Application Serial No. 09/545,974  
Applicant: Alexander Borzenko

The following documents are attached for filing:  
Transmittal Form (1 p.); Power of Attorney by Assignee of Entire Interest (Revocation of Prior Powers) (2 p.); Certificate of 37 CFR 3.73(b) (1 p.); Merger Agreement (3 p.)

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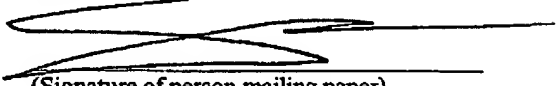
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Date: June 2, 2004

Sandra K. Begley

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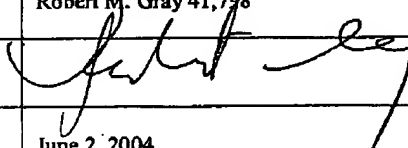
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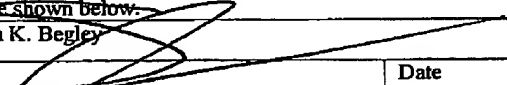
<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number	09/545,974
		Filing Date	April 10, 2000
		First Named Inventor	Alexander Borzenko
		Art Unit	3628
		Examiner Name	Harish T. Dass
Total Number of Pages in This Submission		Attorney Docket Number	1991-01100

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input checked="" type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group <i>(Appeal Notice, Brief, Reply Brief)</i> <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) <i>(please              identify below):</i> <i>Certificate Under 37 CFR 3.73(b)(1              p.); Merger Agreement (3 p.)</i>
Remarks		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Or Individual Name	Robert M. Gray 41,798
Signature	
Date	June 2, 2004

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or Printed Name	Sandra K. Begley		
Signature		Date	June 2, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P. O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and selection option 2

JUN 08 2005

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Alexander Borzenko	§	
		§	Group No.: 3628
Serial No.:	09/545,974	§	
		§	
Filed:	April 10, 2000	§	Examiner: Harish T. Dass
		§	
For:	Apparatus and Method for Automated	§	
	Market Activity	§	

POWER OF ATTORNEY BY ASSIGNEE OF ENTIRE INTEREST  
(REVOCATION OF PRIOR POWERS)

Attorney Docket: 1991-01100

Date: May 25, 2004

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

As assignee of record of the entire interest of the above identified application, all powers of attorney previously given are hereby revoked and the following attorney(s) are hereby appointed to prosecute and transact all business in the Patent and Trademark Office connected therewith:

Kevin L. Daffer	34,146	Leslie V. Payne	38,267
Michael F. Heim	32,702	David A. Rose	26,223
Robert Gray	41,798	Marcella D. Watkins	36,962
Jonathan M. Harris	44,144	Jonathan Pierce	42,073
Daniel J. Krueger	42,771	Kristin Jordan Harkins	37,859
Gregory L. Maag	32,363	Shannon W. Bates	47,412
Mark E. Scott	43,100	Sarah S. Bittner	47,426
Rodney R. Carroll	39,624	Timothy S. Westby	52,352
Michael W. Piper	39,800	Jeremy P. Welch	52,348
Derek V. Forinash	47,231	Adele C. Noon	52,077
Carol G. Mintz	38,561		

all of the law firm of:

Conley Rose, P.C.  
P.O. Box 3267  
Houston, Texas 77253-3267

Please send all correspondence and direct all telephone calls to:

Robert M. Gray  
Conley Rose, P.C.  
P.O. Box 3267  
Houston, Texas 77253-3267  
(713) 238-8000  
Facsimile: (713) 238-8008

**ASSIGNEE CERTIFICATION**

Attached to this Power is a "CERTIFICATE UNDER 37 CFR 3.73(b)".

Date: 5-25-2004

By:   
Typed Name: Diane Turriff

Title: Senior Counsel  
E\*Trade Financial Corporation

**CERTIFICATE UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: **E\*TRADE FINANCIAL CORPORATION**Application No./Patent No.: 09/545,974Filed/Issue Date: April 10, 2000Entitled: **Apparatus and Method for Automated Market Activity**

**E\*Trade Financial Corporation**  
 (Name of Assignee)

**a corporation**  
 Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of an undivided part interest.  
 The extent (by percentage) of its ownership interest is \_\_\_\_\_ %

In the patent application/patent identified above by virtue of either:

- A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United Patent and Trademark Office at Reel, Frame, or for which a copy thereof is attached.

OR

- B. ☒ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: Alexander Borzenko  
 To: Tradescape Technologies, L.L.C.  
 The document was recorded in the United Patent and Trademark Office at  
 Reel 011243, Frame 0169
2. From: Tradescape Technologies, L.L.C. To: E\*Trade Financial Corporation  
 for which a copy thereof is attached.

- ☐ Additional documents in the chain of title are listed on a supplemental sheet.
- ☐ Copies of assignments or other documents in the chain of title are attached.  
 [NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

5-25-2001  
 Date

**E\*Trade Financial Corporation**

Diane Turriff  
 Typed or printed name

  
 Signature

Senior Counsel  
 Title

125979.01/1991.01100

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P. O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORM TO THIS ADDRESS. SEND TO: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

## MERGER AGREEMENT

THIS AGREEMENT AND PLAN OF MERGER (this "Agreement"), dated as of April 10, 2002, is being entered into by and among Tradescape Corp., a Delaware corporation (the "Company"), Tradescape Technology Holdings Inc., a Delaware corporation and a wholly owned subsidiary of the Company ("TTH"), Tradescape Momentum Holdings Inc., a Delaware corporation and a wholly owned subsidiary of the Company ("MHI") and, together with TTH, the "Target Companies," and each a "Target Company", E\*TRADE Group, Inc., a Delaware corporation ("Parent"), TTH Acquisition Corp., a Delaware corporation and a wholly owned subsidiary of Parent ("TTH Merger Sub") and MHI Acquisition Corp., a Delaware corporation and a wholly owned subsidiary of Parent ("MHI Merger Sub" and, together with TTH Merger Sub, the "Merger Subs"). Capitalized terms used in this Agreement and not otherwise defined have the meanings ascribed to them in Section 12.1 of this Agreement.

### RECITALS

A. The Company is a holding company which, through the Target Companies, provides end-to-end electronic trading solutions for retail, professional and institutional traders through its family of direct and indirect Subsidiaries including: Momentum Securities, LLC ("Momentum"), a Subsidiary of MHI, which is a provider of onsite brokerage services for professional traders engaged in high-frequency securities trading, largely for their own accounts; Tradescape Securities, LLC ("TSLLC"), also a subsidiary of MHI, which provides active retail customers the same high-speed direct access trading technologies used by institutional and professional traders, as well as competitive commissions, free Level II quotes and superior customer service; Tradescape Technologies, LLC ("TTLIC"), a subsidiary of TTH which distributes products, including Smart Order Routing Technology<sup>SM</sup> (SORT)<sup>SM</sup>, Electronic Communications Portal<sup>SM</sup> (ECP<sup>SM</sup>) technology, which provides access to all major liquidity pools through high-speed market connections, and LightSpeed<sup>SM</sup>, a next-generation trading platform for professional traders, domestically and internationally through licensing agreements with the other Company Subsidiaries and through third-party arrangements; and Momentum Securities Partners, LLC ("MSPLL"), a subsidiary of MHI which serves primarily as an asset holding company for Momentum.

B. On the date of this Agreement and at the Effective Time, respectively, the Company owns and will own, respectively, 100% of the issued and outstanding shares of capital stock of the Target Companies.

C. As a result of the mergers contemplated by this Agreement, pursuant to the terms and on the conditions contained in this Agreement, each Merger Sub will be merged with and into the Target Company specified in this Agreement, resulting in Parent acquiring 100% of the issued and outstanding shares of capital stock of each Target Company.

D. The respective Boards of Directors of each of Parent, the Merger Subs, the Company and the Target Companies have determined that the mergers of the Merger Subs with and into the Target Company specified in this Agreement (hereinafter referred to as the "Mergers") in accordance with the laws of the State of Delaware, and subject to the terms and conditions of this Agreement, are advisable and in the best interests of Parent, each Merger Sub, the Company and each Target Company, as the case may be, and their respective stockholders and have, where appropriate or required, approved this Agreement and the Mergers.

## 2.11. Intellectual Property.

(a) Schedule 2.11(a) of the Company Disclosure Schedule sets forth a list of all Intellectual Property owned by either Target Company or any of their respective Subsidiaries (other than trade secrets, know-how and goodwill attendant to the Intellectual Property and other intellectual property rights not reducible to schedule form). The Target Companies and/or their respective Subsidiaries have all right, title and interest in all such Intellectual Property, free and clear of all claims and/or rights of other Persons, and all such Intellectual Property is valid and in good standing.

(b) Schedule 2.11(b) of the Company Disclosure Schedule sets forth a list of all Intellectual Property licensed from third parties by either Target Company or any of their respective Subsidiaries. The Target Companies and/or their respective Subsidiaries have a valid and binding license to use all such Intellectual Property, free and clear of all claims and/or rights of other Persons, and all such Intellectual Property is valid and in good standing.

(c) Except for the Intellectual Property listed on Schedule 2.11(a) and Schedule 2.12(b) of the Company Disclosure Schedule, and trade secrets, know-how and goodwill attendant to such Intellectual Property and other intellectual property rights not reducible to schedule form, no other Intellectual Property is used or is proposed to be used by either Target Company or any of their respective Subsidiaries in their respective businesses as currently conducted or as currently proposed to be conducted nor is any other Intellectual Property necessary for the conduct of such business.

(d) Each Target Company and its respective Subsidiaries have taken all reasonable precautions to protect the secrecy, confidentiality and value of all know-how included in the Intellectual Property.

(e) Neither of the Target Companies nor any of their respective Subsidiaries have (i) licensed any of their Intellectual Property in source code form to any party; (ii) entered into any exclusive agreements relating to their Intellectual Property; or (iii) entered into any arrangements or agreements that could cause an encumbrance or impairment of their Intellectual Property rights.

Schedule 2.11(a)List of Intellectual property

Unless otherwise noted on this Schedule 2.11(a), all intellectual property is owned by  
Tradescape Technologies, LLC.

PATENTS APPLICATIONS

<u>Serial No.</u> <u>Filing Date</u>	<u>Title</u>	<u>Street Name</u>
09/545,974 04/10/00	Apparatus and Method for Automated Display of Market Activity	Thermograph